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RR RUEHWEB

DE RUEHZP #1711/01 3021600  
ZNR UUUUU ZZH  
R 291600Z OCT 07  
FM AMEMBASSY PANAMA  
TO SECSTATE WASHDC 1330

UNCLAS PANAMA 001711

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FOR STATE WHA/CEN - TELLO  
FOR STATE EB/TPP/BTA  
FOR USTR OFFICE OF POLICY COORDINATION - GBLUE

E.O. 12958: N/A  
TAGS: [ECON](#) [EFIN](#) [ETRD](#)  
SUBJECT: PANAMA: 2008 NATIONAL TRADE ESTIMATE REPORT

REF: STATE 119763

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TRADE SUMMARY  
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1. (U) The U.S. goods trade surplus with Panama was \$2.3 billion in 2006, an increase of \$493 million from \$1.8 billion in 2005. U.S. goods exports in 2006 were \$2.7 billion, up 25.2 percent from the previous year. Corresponding U.S. imports from Panama were \$378 million, up 15.7 percent. Panama is currently the 45th largest export market for U.S. goods and 102nd import supplier.

2. (U) The stock of U.S. foreign direct investment in Panama in 2006 was \$5.73 billion (latest data available), down slightly from \$5.78 billion in 2004. U.S. FDI in Panama is concentrated largely in the non-bank holding companies, finance, insurance and wholesale trade sectors.

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TRADE PROMOTION AGREEMENT  
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3. (U) On June 28, 2007, the United States and Panama signed a trade promotion agreement (TPA). The Panamanian National Assembly ratified the TPA on July 11, 2007 and is awaiting U.S. Congressional action. A bilateral TPA with Panama would be a natural extension of an already largely open trade and investment relationship. Panama is unique in Latin America, but like the United States, in that it is predominantly a services-based economy. Services represent about 80 percent of Panama's gross domestic product. Along with implementation of the Dominican Republic ) Central America ) United States Free Trade Agreement (CAFTA-DR), implementation of a bilateral TPA with Panama could further boost momentum for lowering trade and investment barriers throughout the region. The agreement will provide new economic opportunities for U.S. exporters, particularly for agricultural products, passenger vehicles and certain machinery which currently face high tariff rates. The TPA would facilitate exports in support of the \$5.25 Panama Canal expansion project, as well afford greater access to the services market. The TPA would enhance trade remedies, increase transparency in government procurements, strengthen intellectual property rights protection, and provide for commitments to adhere to and enforce certain protections for workers and the environment.

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IMPORT POLICIES  
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Tariffs

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14. (U) Under the TPA, 88 percent of U.S. exports of consumer and industrial goods to Panama would become duty-free immediately, with remaining tariffs phased-out over ten years. The agreement would include "zero-for-zero" immediate duty-free access for key U.S. sectors and products including agricultural and construction equipment, information technology products, medical and scientific equipment, animal genetics, and oilseeds. Other key U.S. export sectors such as motor vehicles and parts, paper and wood products, and chemicals also would obtain significant access to Panama's market as duties are phased-out.

15. (U) The TPA provides for immediate duty-free treatment for more than half of current U.S. agricultural exports to Panama, including high-quality beef, certain pork and poultry products, cotton, wheat, soybeans and soybean meal, most fresh fruits and tree nuts, distilled spirits and wine, and a wide assortment of processed products. The TPA also provides for expanded market access opportunities through tariff-rate quotas (TRQs) for agricultural products such as pork, chicken leg quarters, dairy products, corn, rice, refined corn oil, dried beans, frozen French fries and tomato products. Tariffs on most remaining U.S. agricultural products would be phased out within 15 years.

16. (U) Apparel products made in Panama would be duty-free under the bilateral TPA if they use U.S. or Panamanian fabric and yarn, thereby supporting U.S. fabric and yarn exports and jobs. Strong customs cooperation commitments between the United States and Panama would allow for verification of claims of origin or preferential treatment, and denial of preferential treatment or entry if claims cannot be verified.

17. (U) For some of Panama's most sensitive products, TRQs would permit immediate duty-free access for specified quantities, which quantities will increase during the tariff phaseout period, while the "over-quota" tariffs are phased out. Panama's tariffs on agricultural goods range from 10 percent to more than 250 percent. In addition, Panama charges a 10 percent tax on sparkling wine and a 15 percent tax on still wines. The maximum tariff on industrial imports is 15 percent.

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Non-Tariff Measures  
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18. (U) In addition to tariffs, all imports into Panama are subject to a 5 percent transfer (or ITBM) tax levied on the cost, import duty, insurance, and freight value, and other handling charges. Pharmaceuticals, foods, school supplies, export and re-exports activities, and all products related to transactions occurring in any free zone are exempt from the transfer tax. Currently, importing entities are required to hold a commercial or industrial license to operate in Panama, which license can be obtained through Panama's online business registration service ([www.panamaemprende.gob.pa](http://www.panamaemprende.gob.pa)). Importing entities are not required to have a separate import license, with the exception of certain controlled products such as weapons, medicine, pharmaceutical products and certain chemicals. For many years, the licensing process for agricultural imports to Panama has historically been arbitrary and non-transparent. In 2006, the Panamanian government created a new "Food Safety Authority" to bring greater transparency and science-based decision-making for agricultural imports. This Authority has thus far operated effectively, for example, in opening the way for imports of U.S. beef.

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STANDARDS, TESTING, LABELING AND CERTIFICATION  
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19. (U) In the past, Panama has required that its health and agriculture officials certify individual U.S. plants and/or shipments as a precondition for the importation of beef, poultry, pork, dairy, and other agricultural products. In

addition, Panama has restricted imports of U.S. meat and poultry and of other U.S. agricultural products through non-science-based sanitary and phytosanitary (SPS) requirements. Certain agricultural products (e.g., processed food products) also faced lengthy and costly product registration requirements.

¶10. (U) On December 20, 2006, the U.S. and Panama signed a far-reaching bilateral agreement on SPS measures and technical standards. Panama has implemented this agreement through a series of resolutions and decrees. Under this agreement, Panama has recognized the equivalence of the U.S. meat and poultry inspection systems and of the U.S. regulatory system for processed food products (including dairy products) thereby eliminating plant-by-plant and shipment-by-shipment inspection requirements. In addition, Panama has provided access for all U.S. beef and beef products (including pet food), and all U.S. poultry and poultry products, consistent with international standards. Panama has lifted all import certification and licensing requirements, except those agreed with the United States (specifically, sanitary certificate requirements) and formalized its recognition of the U.S. beef grading system and cuts nomenclature. Additionally, Panamanian authorities will notify U.S. authorities within 24 hours of any detention of a U.S. shipment due to suspected SPS concerns. Finally, Panama has eliminated its time-consuming and costly product registration procedures, and agreed to an automatic, cost-free and quick registration process for the small group of agricultural products not exempted.

¶11. (U) Both the U.S. and Panama are subject to the WTO Technical Trade Barriers obligations. Panama's application of its technical regulations and conformity assessment procedures for nonagricultural goods conform with WTO guidelines. Panama maintains a transparent standards development process which permits the participation of foreign countries and individuals in standards development activities. Labeling and testing requirements are primarily limited to food products. Products that comply with U.S. labeling and marketing requirements are generally accepted for sale in Panama.

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GOVERNMENT PROCUREMENT  
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¶12. (U) Panamanian Law 22 of 2006 regulates government procurement and other related issues. Law 22 was intended to streamline and modernize Panama's contracting system. It establishes, among other things, an Internet-based procurement system ([www.panamacompra.gob.pa](http://www.panamacompra.gob.pa)) and requires publication of all proposed government purchases. The Panamacompra program requires publication of all government purchases on the Internet; evaluation of proposals and monitoring of the procurement process; consultation of public bids, including technical specifications and tender documents; classification of purchases by different government institutions and gathering and analysis of data. The law also created an administrative court to handle all public contracting disputes. The rulings of this administrative court are subject to review by the Panamanian Supreme Court. The Panamanian government has generally handled bids in a transparent manner, although occasionally U.S. companies have complained that certain procedures have not been followed.

¶13. (U) While Panama committed to become a party to the World Trade Organization (WTO) Government Procurement Agreement (GPA) at the time of its WTO accession, it remains an observer and not a signatory. Its efforts to accede to the GPA have stalled. Under the TPA, Panama would guarantee a fair and transparent process for procurement covered by the TPA. The TPA provides that U.S. suppliers will be permitted to bid on procurement by a wide range of Panamanian government entities, including the Panama Canal Authority, over a certain threshold amounts on the same basis as Panamanian suppliers. The TPA would strengthen rule of law

and fight corruption by criminalizing bribery in government procurements and establishing at least one impartial administrative or judicial authority to receive and review supplier challenges. Disputes relating to Panama Canal Authority procurement will continue to be addressed through the authority's existing procedures.

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EXPORT SUBSIDIES  
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¶14. (U) Panamanian Law 3 of 1986 allows any company to import raw materials or semi-processed goods at a duty of 3 percent for domestic consumption or processing (pending certification that there is no national production), or duty-free for export production, except for sensitive agricultural products, such as rice, dairy, pork, corn and tomato products. Under Law 3 of 1986, companies are allowed a tax deduction of up to 100 percent of their profits from export operations through 2010.

¶15. (U) In the context of its WTO accession, Panama revised its export subsidy policies in 1997-98. The government originally had stated its intention to phase out its Tax Credit Certificate (CAT), which was given to firms producing certain non-traditional exports, by the end of 2001. However, during the WTO Ministerial Conference in November 2001, the government of Panama asked for and received an extension for the use of CATs. The WTO extended this waiver until December 2006, allowing exporters to receive CATs equal to 15 percent of the export's national value added. Legislation enacted in 2004 aimed at eliminating the CAT and replacing it with another form of subsidy has been repealed. The CAT program has been extended until September 30, 2009 allowing exporters to receive CATs equal to 5 percent of the export's value added, or 15 per cent through 2007, 10 percent through 2008 and 5 per cent through September 30, 2009. The certificates are transferable and may be used to pay tax obligations to the government, or they can be sold in secondary markets at a discount. The government has, however, become stricter in defining national value added, in an attempt to reduce the amount of credit claimed by exporters.

¶16. (U) In addition, a number of export industries, such as shrimp farming and tourism, are exempt from paying certain types of taxes and import duties. The government of Panama established this policy to attract foreign investment, especially in economically depressed regions, such as the city of Colon. Companies that profit from these exemptions are not eligible to receive CATs for their exports.

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Other Export-Related Items  
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¶17. (U) The Tourism Law of 1994 (Law 8) allows a deduction from taxable income of 50 percent of any amount invested by Panamanian citizens in tourism development. Law 8 was modified in December 2006, to provide this deduction only for tourism related investments in excess of \$3 million.

¶18. (U) Law 25 of 1996 provides for the development of export processing zones (EPZs) as part of an effort to broaden the Panamanian manufacturing sector while promoting investment, particularly in former U.S. military bases. Companies operating in these zones may import inputs duty-free if products assembled in the zones are to be exported.

¶19. (U) The government also provides other tax incentives to EPZ companies. There are fifteen EPZs in Panama, two of which are inactive. The Panamanian government is seeking to conform the regulations governing EPZs to those of the WTO Agreement on Subsidies and Countervailing Measures.

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INTELLECTUAL PROPERTY RIGHTS (IPR) PROTECTION  
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¶20. (U) Intellectual property policy and practice in Panama is the responsibility of an "Inter-institutional" Committee. This committee consists of representatives from six government agencies and operates under the leadership of the Ministry of Commerce and Industry. It coordinates enforcement actions and develops strategies to improve compliance with the law. The creation of a specialized prosecutor for intellectual property-related cases has strengthened the protection and enforcement of intellectual property rights (IPR) in Panama. However, given Panama's role as a transshipment point, industry is concerned Panama will become susceptible to trading in pirated and counterfeit goods.

¶21. (U) The bilateral TPA provides for improved standards for the protection and enforcement of a broad range of intellectual property rights, which are consistent with U.S. standards of protection and enforcement and with emerging international standards. Such improvements include state-of-the-art protections for digital products such as U.S. software, music, text and videos; stronger protection for U.S. patents, trademarks and test data, including an electronic system for the registration and maintenance of trademarks; and further deterrence of piracy and counterfeiting.

¶22. (U) Under the TPA, Panama would be obligated to ratify or accede to the Patent Cooperation Treaty, the Convention Relating to the Distribution of Programme-Carrying Signals Transmitted by Satellite, and the Budapest Treaty on the International Recognition of the Deposit of Microorganisms for the Purposes of Patent Procedure by the date the TPA enters into force. Panama would also be obligated to ratify or accede to the International Convention for the Protection of New Varieties of Plants by 2010 and the Trademark Law Treaty by 2011.

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Copyrights  
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¶23. (U) The government of Panama is a party to the WIPO Copyright Treaty and the WIPO Performances and Phonographs Treaty, and is a member of the Berne Convention for the Protection of Literary and Artistic Works. The Copyright Office, however, has not yet promulgated the underlying regulations to the Treaties.

¶24. (U) Though Panama's 1994 copyright law modernized copyright protection and amendments to the law in 2004 provided for a special Copyright Office with anti-piracy enforcement powers, piracy remains a significant problem. For example, although U.S. industry welcomes the effective police and legal action which have significantly reduced the rate of DVD piracy, Internet piracy is quickly emerging in Panama. Films in theatrical release are often downloaded to DVDs and videos, reproduced on optical discs, and then distributed by street vendors.

¶25. (U) The TPA would require implementation of the WIPO Treaties in a manner consistent with the U.S. digital Millennium Copyright Act. The TPA would also extend copyright protection from life of the author plus 50 years to life of the author plus 70 years; would require both governments to mandate the use of legal software in government agencies; and would include provisions to protect against the theft of encrypted satellite signals and the manufacturing or sale of tools to steal such signals.

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Patents  
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¶26. (U) Panama is a member of the Paris Convention for the Protection of Industrial Property. Panama's 1996 Industrial Property Law provides a term of 20 years of patent protection from the date of filing. However, pharmaceutical patents are granted for only 15 years and can be renewed for an

additional ten years, if the patent owner licenses a national company (minimum of 30 percent Panamanian ownership) to exploit the patent. The Industrial Property Law provides specific protection for trade secrets.

¶27. (U) The TPA would address the issues of patent extension for unreasonable approval delay, data exclusivity of material submitted to regulators, and the prevention of patent linkage.

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Trademarks  
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¶28. (U) Law 35 provides trademark protection, simplifies the process of registering trademarks and allows for renewal of a trademark for ten-year periods. An important feature of the law is the granting of ex-officio authority to government agencies to conduct investigations and to seize materials suspected of being counterfeited. Decrees 123 of November 1996 and 79 of August 1997 specify the procedures to be followed by Customs and Colon Free Zone (CFZ) officials in conducting investigations and confiscating merchandise. In 1997, the Customs Directorate created a special office for IPR enforcement, followed by a similar office created by the CFZ in 1998. The Trademark Registration Office has undertaken significant modernization with a searchable computerized database of registered trademarks that is open to the public as well as online registration.

¶29. (U) The TPA would broaden the scope of trademarks to be protected, enhance existing protection for geographical indication, and provide for increased automation of trademark services.

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SERVICES BARRIERS  
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¶30. (U) In general, Panama maintains an open regulatory environment for services. For some professions, such as insurance brokers, customs brokerage, freight forwarding, architects, engineers, medical doctors, lawyers and psychologists, Panama requires that individuals hold a Panamanian technical license. Under Law 41 of 2007, multinational companies seeking to open backoffice operations in Panama are exempt from Panamanian income and value added taxes on services provided to entities domiciled outside of Panama that do not generate taxable income within Panama.

¶31. (U) Under the bilateral TPA, Panama would accord substantial market access across its entire services regime, including financial services. Panama agreed to eliminate certain measures that restrict investment in retail trade to Panamanian nationals (specifically allowing U.S. companies to engage in the retail sale of such company's goods and services; full access to investments in the retail sector would be permitted after 2010 if the investment is at least \$3 million), to provide improved access in sectors like express delivery, and to grant new access in certain professional services that previously had been reserved exclusively to Panamanian nationals. Panama also agreed that portfolio managers in the United States would be able to provide portfolio management services to both mutual funds and pension funds in Panama. The TPA would also permit U.S. insurance to provide certain types of insurance service in Panama and to open branches or subsidiaries in Panama.

¶32. (U) Even under the TPA, investment by financial services firms would still be restricted. Similarly, while the TPA would accord U.S. telecommunications companies greater access to the Panamanian market (with the exception of mobile services) and provide for greater transparency and enforcement by the regulating agency, telecommunications investments are hampered by the reluctance of Cable & Wireless Panama (one of the two cellular telecommunications companies operating in Panama and principal wire-line carrier) to negotiate and/or implement interconnection

agreements with new entrants.

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INVESTMENT BARRIERS  
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¶33. (U) Panama maintains an open investment regime and is receptive to foreign investment. There are no regulations prohibiting the acquisition of Panamanian companies by foreign nationals. Over the years the country has bolstered its reputation as an international trading, banking, maritime and services center.

¶34. (U) The Panamanian government was, until recently, often unresponsive to concerns raised by U.S. investors. For example, in highly regulated sectors, or in sectors where the government grants a concession, companies have encountered a lack of cooperation from government officials and been subjected to changes to the terms of their concession contracts. One such example related to pricing changes and a cancellation of contracts without consideration for existing law.

¶35. (U) The U.S.-Panama Bilateral Investment Treaty (BIT) entered into force in 1991 (with additional amendments in 2001). With some exceptions, the BIT ensures that U.S. investors receive fair, equitable and non-discriminatory treatment and that both parties abide by international law standards such as for expropriation and compensation and free transfers. Under the bilateral TPA, the BIT would be suspended after a period of 10 years. Investors will continue to have important investment rights and protections under the investment provisions of the bilateral TPA.

¶36. (U) The bilateral TPA would establish a more secure and predictable legal framework for U.S. investors operating in Panama. Under the bilateral TPA, all forms of investment would be protected, including enterprises, debt, concessions, contract and intellectual property. U.S. investors would enjoy, in almost all circumstances, the right to establish, acquire and operate investments in Panama on an equal footing with local investors. Among the rights afforded to U.S. investors are due process protections and the right to receive a fair market value for property in the event of an expropriation. Investor rights would be protected under the bilateral TPA by an effective, impartial procedure for dispute settlement that is fully transparent and open to the public. Submissions to dispute panels and, dispute panel hearings would be open to the public, and interested parties would have the opportunity to submit their views.

¶37. (U) On July 12, 2006, Panama enacted Law 27 which allows the government of Panama to create enterprises to conduct oil and gas exploration, distribution, production, storing, industrialization, commercialization, importation, exportation and refining activities. Although the government has not yet created such an entity, U.S. companies have expressed concern that Law 27 is ambiguous and may result in greater government intervention and restrictions in the energy sector.

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ELECTRONIC COMMERCE  
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¶38. (U) In mid-2001, Panama became the first country in Central America to adopt a law specific to electronic commerce. A collaboration between the private and public sector, Panama's electronic commerce law has several important features: it gives legal force to any transaction or contract completed electronically; it creates the National Directorate of Electronic Commerce to oversee the enforcement of the law; it defines certification organizations; and establishes a voluntary registration regime. In addition, in August 2004 partial regulations regarding the 2001 law were issued to facilitate the registration of certification organizations, particularly in the maritime sector.

¶39. (U) Under the bilateral TPA, Panama would provide non-discriminatory treatment of digital products transmitted electronically; not impose customs duties, fees or other charges on digital products transmitted electronically; and cooperate in numerous policy areas related to electronic commerce. Additionally, the agreement would require procedures for resolving disputes about trademarks used in Internet domain names. The TPA would also recognize the applicability of WTO rule to e-commerce and establish a procedure to resolve domain name disputes.

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OTHER BARRIERS  
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Corruption  
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¶40. (U) The judicial system can pose a problem for investors due to poorly trained personnel, huge case backlogs and a lack of independence from political influence. Amid persistent allegations of corruption in the government, particularly in the judiciary, the Torrijos administration campaigned in 2004 on a promise to "eradicate corruption." The government continues to assert its commitment to combating corruption as part of its overall agenda of institutional reform. For example, it has instituted a number of new online systems aimed at bringing greater transparency and efficiency to government licitations, contracting, and business start-up procedures. The long-term sustainability and efficacy of these systems remains to be seen. Moreover, the government has been slow to deliver concrete results in enforcing anti-corruption laws. To date, the Torrijos administration has yet to prosecute any high-level governmental corruption cases. In addition, various Panamanian laws tend to inhibit the prosecution of corruption cases. For example, existing law allows legislators and judges to sue journalists for libel and slander, whether or not what they publish is the truth. Other laws provide that only the National Assembly may initiate corruption investigations against Supreme Court judges and that only the Supreme Court could initiate investigations against members of the National Assembly, thereby encouraging, in effect, a "non aggression pact" between these two branches of government. Supreme Court judges are typically nominated to their 10-year terms on the basis of political consideration as opposed to recommendation from civil society. Post has received a number of credible allegations of judicial corruption that has appeared to affect U.S. investors adversely.

¶41. (U) The anti-corruption provisions in the bilateral TPA would require Panama to ensure that bribery in trade-related matters is treated as a criminal offense, or is subject to comparable penalties, under its law.

EATON